



Flathead Conservation District
133 Interstate Lane, Kalispell, MT 59901
www.flatheadcd.org 406-752-4220

CALL TO ORDER & ATTENDANCE

Chair Ronald Buentemeier called the February 26, 2018, Business meeting to order at 7:00 P.M. in the conference room.

Board members present:

Ronald Buentemeier, Chairman; Pete Woll, Vice Chairman; Dean Sirucek, Secretary/Treasurer; John Ellis, Supervisor; Mark Siderius, Supervisor; Verdell Jackson, Supervisor; Lori Curtis, Supervisor, being a quorum of the Board.

Also in attendance were: Valerie Kurth, FCD staff; Caitlin Overland, Flathead County Attorney's office; Robert Corrette; Mark Salansky; Dennis Wasley.

MINUTES

Dean Sirucek made a motion "to approve the minutes of the February 12, 2018, 310-Stream Permit meeting as presented." Verdell Jackson seconded. Motion carried unanimously.

CORRESPONDENCE

1. Email: DNRC FY 19 Administrative Grant applications due May 1, 2018. Contact Karl Christians, DNRC, 406-444-3022 kchristians@mt.gov
2. Email: Soil & Water Conservation Districts (SWCDM) is working on a grant proposal that would potentially provide funding for 6 augmented reality sandboxes throughout the state. If awarded, there would be funding for full construction of each sandbox, education curriculum development, training on how to operate the sandbox, and also money for travel to make sure the sandbox can be brought to all interested CDs in the state. SWCDM is asking for 6 CDs that would be interested in housing a sandbox and also in learning how to use it, and potentially train surrounding CDs so they can be used at education events in all communities. See video <https://www.youtube.com/watch?v=fiXNab5LzPg>
Contact: Jessica Makus, jessica@macdnet.org, 406-443-5711
3. Email: National Association of Conservation District (NACD) publications *NACD eResource*, *Conservation Clips*, *Forestry Notes* <http://www.nacdnet.org>
4. Email: Montana Association of Conservation Districts (MACD) <http://macdnet.org> and Soil & Water Conservation Districts of Montana (SWCDM) <http://swcdm.org> January 2018 report and February 21, 2018 issue of *The Montana Conservationist*
5. Email: The Noxious Weed Management Advisory Council meeting March 5-9, Helena, Wingate Hotel (2007 N Oakes Street) to hear proposals for this year's [Noxious Weed Trust Fund](#) grants. Contact Andy Fjeseth, Communications Officer Montana Department of Agriculture, (406) 444-3684. For more information on the Montana Department of Agriculture, visit agr.mt.gov.
6. Email: Soil Acidity workshop, February 27, Fort Benton. RSVP by 2/23 to Tyler Lane



- tyler.lane@montana.edu, (406) 622-3751.
7. Email: DEQ is sponsoring the Montana Storm Water Conference, May 1-3, Bozeman. Contact 866-633-8110, info@mtsotrmwaterconference.org
 8. Email: On Feb. 9, 2018, the US Army Corps of Engineers (USACE) published a request for proposals for beneficial use of dredged material pilot projects in the Federal Register to meet the requirements of Section 1122 of the Water Resources Development Act (WRDA) of 2016, Beneficial Use of Dredged Material. Proposals must be submitted by March 12, 2018.
Contact Mike Ott michael.e.ott@usace.army.mil, 203-808-3884
 9. Email: Custer County Conservation District newsletter *Conservation Update* 406-232-7905
 10. Email: Petroleum Conservation District February 2018 newsletter (406) 429-6646 ext. 104 petroleumcd@midrivers.com
 11. Email: Envirothon registrations forms must be submitted to Fergus Conservation District by 3/1/2018. Helpers are needed for the April 23-24 event to be held in Lewistown, MT. Contact Shonny Nordlund, 406-538-7401, Ext. 101, fcd@midrivers.com
 12. Email: DNRC is hosting a *Successful Grant Writing* webinar series, March 5, 14, 21 & 28, followed by a *Contract Management* webinar series. Contact Karl Christians, DNRC, 406-444-3022, kchristians@mt.gov
 13. Email: Rosebud & Big Horn Conservation Districts newsletter *Conservation Connection*, <https://www.rosebudcd.com>
 14. Email: DNRC announces the book *Montana Women From the Ground Up, Passionate Voices I Agriculture and Land Conservation* is complete. 500+ books will be delivered to DNRC by May 7, and to CD's by the second or third week in May. CD's are being given a one-time opportunity to buy the book at the half price of \$11 and resell it at the full retail value of \$21.99. Contact DNRC by April 16th and let them know how many books your district and local outlets want to buy. Contact Linda Brander, DNRC Resource Specialist, 406-444-0520 LLBrander@mt.gov
 15. Email: Montana DEQ announces the Montana Storm Water Conference: Running with Runoff: Sustainable Storm Water Management, May 1-3, 2018, Bozeman, MT. www.mtstormwaterconference.org/program/
Contact: Christopher Romankiewicz, DEQ Lead Compliance Inspector, (406) 475-2138, cromankiewicz@mt.gov

FINANCIAL

The following bills were reviewed:

1. CenturyLink \$267.20
2. MontanaSky Networks \$20.00
3. NW Montana Fair \$350.00

Mark Siderius made a motion "to approve the bills as presented." Verdell Jackson seconded. Motion carried unanimously.



PUBLIC COMMENT

No one was present to comment on items not listed on the agenda.

Robert Corrette, with Marina Cay in Bigfork, arrived late (7:15 P.M.) for public comment. He explained that they want to re-do the existing decking, but was not sure if he needed a 310 permit. The work will be beyond the dock wall by about 4-5 feet. They want to replace all of the decking that is rotting, as well as add some other features. They would like to get work done before May. He didn't think the project would impact the Swan River, but had been told different things regarding the 310 permit requirements. Pete Woll offered to set up an informal site visit with Leo Rosenthal from Fish, Wildlife & Parks (FWP).

310's

Salansky, FL2018001, Flathead River, bank stabilization: Dean Sirucek reported that he visited the site with Kenny Breidinger, FWP, on 2/18/2018. There is a small section of about 150-170 feet of bank along the Flathead River that the landowner wants to rip rap. The applicant requested the board address this soon because the floodplain permit may take a long time. Dean and Kenny suggested modifications to allow root wads to be placed at the bottom/toe of the rip rap slope, which will provide foundation material and improve erosion resistance.

Mark Salansky explained he was misinformed about needing a floodplain permit and originally thought he only needed a 310 permit. Last August they lost a big chunk of bank, and it is now cutting behind concrete steps. There is also a cabin in the area, and with a high amount of snow and runoff they are not sure where the channel will go. He wants to do the project while the water is down and the ground is frozen. Dean explained the need for expediting a permit because of an upturned tree upstream from the property that is making the problem worse, and with high water it will cause even more erosion.

Dean Sirucek moved "to approve the application with modifications per the team member report." Verdell Jackson seconded.

Discussion held. Ronald Buentemeier asked for some additional information about the rock and root wad approach. He wondered if this was standard repair (similar to other projects), are the rocks in addition to the root wads, would they be on top of the roots wads and push down, and would this be below the water line. Dean explained that the material in the area is very soft and several trees have either fallen into the river or need to be cut down. Roots from these trees will provide native material to form the foundation for the rock rip rap. The rocks would be placed on top of the root wads, pushed down on them, and essentially form a foundation for the rip rap. It would be below the water line.

Motion passed unanimously. *Mark Siderius abstained from voting.*

Dean Sirucek moved "to waive the 15-day waiting period." Lori Curtis seconded. Motion carried unanimously. *Mark Siderius abstained from voting.*



NEW BUSINESS

Cost-Share: Valerie Kurth presented a cost-share application from Dennis Wasley for weed control (primarily knapweed and canadian thistle being the worst) on approximately 40 acres of forested land near Lakeside. Mr. Wasley will be doing the work himself. Last Fall Angel Rosario, NRCS, went to the site with Valerie and did an aerial estimate with the GPS, using a 20 foot buffer along the roads, trails and the home site. They estimated 5 acres, so, using the NRCS General EQIP rates, the total project cost is approximately \$300 (\$60/acre). Valerie stated it is a well-managed forest, the landowner is very conscientious and it would be a good project. Valerie stated that the cost share program runs on our fiscal year, and still has about \$12,000 in the budget. The weed control will be done in early spring and maintained in the summer and fall. Valerie stated since the bulk of the work will be done in the spring, a site visit could be held in May.

John Ellis made a motion “to approve cost-share FCD2017-004 in the amount of \$225.68.” Mark Siderius seconded. Motion passed unanimously.

Review of Walters 310-Permit: Ronald Buentemeier explained that Caitlin Overland from the Flathead County Attorney’s Office was asked to come to the meeting to discuss what the board did well and how it could improve its process for 310 permits, especially pertaining to the Walters 310. Caitlin explained that we are still in the 90-day window that FWP has to appeal the arbitration, so she could only speak about general themes. The first thing to remember is to figure out jurisdiction, and the board should be very clear in their discussion and motions what part or parts are under FCD’s jurisdiction. In a case like the Walters application, when the supervisors have different opinions about jurisdiction, it is important for the board to decide together what jurisdiction should be taken. Some situations are probably very obvious, but Caitlin urged caution on all permit application decisions. She continued on to explain that the next point to remember is that there are six criteria that must be considered (from statute 75-7-112(9)). She reviewed the six factors using a rip rap project as an example. She encouraged supervisors to incorporate the six factors in their discussion as much as possible because this creates a good record for the future. You cannot always prevent lawsuits or arbitration, but good documentation is key for your defense, and it is good that FCD is recording its meetings. Finally, some of the rules in the Adopted Rules are discretionary, and when this is the case, make sure you explain why you are using your discretion in deciding the permit. Although this may seem very repetitive, it will be very helpful if this kind of thing comes up again. Caitlin noted she recommends this to all of the County boards they work with because these things are not as obvious to other people who are not supervisors. She encouraged the district to contact her if the board ever needed help making a determination.

Ronald Buentemeier asked if they would have had to state a reason for allowing the fill material. Caitlin explained that the reason would relate the extent of their jurisdiction. Dean Sirucek said this project was unusual because the proposal changed three times before approval, and this was not always documented in the team member report. He wondered if multiple team member reports would be necessary in this type of situation. Caitlin responded affirmatively. Ronald pointed out that we still lack an exact definition of jurisdiction – where it begins and ends. He stated that this is the first time he remembers jurisdiction being an issue and he’s not sure how to solve it. Caitlin responded this probably



comes up somewhat regularly, and it is often addressed via case law. She said the important part was to decide if the board has jurisdiction before moving forward with the decision. Dean said that Kenny Breidinger, FWP, had wanted his own team member report, and asked if the board should discuss all the team member reports at the meeting. Caitlin responded affirmatively and explained that dissenting opinions also need to be discussed and responded to. The board can still override the recommendation of FWP. Mark Siderius clarified that the Walters project was less about jurisdiction and more about the project itself.

Ron turned the discussion to the Stalowy 310 to note how the original application was intended to just remove wetland vegetation, which the board decided not to take jurisdiction over. This is what Stalowy later took to mean he did not need a 310-permit. Verdell Jackson stated that he is sometimes surprised by the discussion that FWP brings up at the meeting because it differs from the discussion at the site. Caitlin said this might be because they think of other points to include in their report after the site visit is over.

Caitlin also gave an update on Stalowy. The complete record was filed with the district court. Marcel Quinn, Stalowy's attorney, is going to be requesting an extension of time to file Stalowy's opening brief. She asked for 2-3 weeks, which may push the entire timeline back for filing briefs, but this is nothing out of the ordinary. All the briefs will be submitted to the district court, and there may be oral arguments. Ronald asked if board members would be part of the oral arguments. Caitlin said typically there are not witnesses for these oral arguments, but it would be open to the public. John Ellis asked if the record was supplemented with the email that stated jurisdiction by Stalowy. Caitlin stated it was filed with the judge, but it has not been ruled on yet. Caitlin will contact the FCD when she hears the judges' decision on it.

Fair Agreement 2018: Valerie Kurth presented the Northwest Montana Fair agreement for 2018, and noted the district will be in the Search and Rescue building with Flathead National Forest (FNF) and Glacier National Park. Valerie has talked with Teresa Wenum, FNF, about room layout to ensure that FCD is not in the back. The cost for the booth is \$10 more than the past several years. Mark Siderius moved "to approve the fair agreement for \$350." Lori Curtis seconded. Motion carried unanimously.

End of Month Budget Report (January 2018): Valerie Kurth presented the January 2018 End of Month Budget report to the Board. Dean Sirucek moved "to accept the January 2018 End-of-Month Budget report as presented." Lori Curtis seconded. Motion carried unanimously.

Montana Association of Conservation Districts (MACD) Dues: Valerie Kurth explained the district received the MACD dues invoice for \$24,757.34, which is approximately 7% of the 2017 budget. However, FCD only budgeted \$16,000.00 for MACD dues this fiscal year (2017/2018), which is a little less than 5% of the budget. In the past MACD has accepted the partial payment and later requested a letter explaining it. Pete Woll suggested the district pay what is budgeted, and include a letter with the payment, so it is on the record. Ronald Buentemeier remembered that at the last Convention, MACD said they would fix the dues issue before the next round of dues requests. Pete suggested including a statement in our



letter about MACD not addressing FCD's concerns, which were detailed in previous letters. Ronald expressed concern about FCD voting rights if the full amount is not paid, and would like the letter to say that we want the money back if we do not have full voting privileges. Pete explained that, similar to previous years, if MACD accepts a letter explaining partial payment, then that district can vote. The board discussed other options for MACD, such as a flat rate of 5% for all districts or legislation

John Ellis made a motion "to submit a dues payment of \$16,000 to MACD accompanied by a letter which states that in exchange for their acceptance of our check, we will be allowed full voting privileges in MACD, and, if this is not acceptable, please return the check." Lori Curtis seconded. Motion carried unanimously.

MACD Convention 2019: Valerie Kurth read an email from Jim Simpson, Lake County CD Chair, requesting CDs in Area V consider hosting the 2019 Convention. The board discussed previous hosting of the convention. Mark Siderius moved that "we submit a letter of support to hold the 2019 convention in Area V." John Ellis seconded. Motion passed unanimously.

CD Operations Review: Valerie Kurth reported that she, Pete Woll and Ginger Kauffman had gone through the CD Operations Review, and then presented it to the board. Pete Woll stated that the only question we had was regarding individuals with access to CD funds be bonded (page 6). Ronald Buentemeier made a motion "to have staff contact Laurie Zeller, DNRC, via email about 76-15-315 (4) MCA regarding bonding." John Ellis seconded. Motion carried unanimously.

Mark Siderius moved "to approve the CD Operations Review." Lori Curtis seconded. Motion carried unanimously.

REPORTS

FCD Staff: Valerie Kurth reported:

District Office and Outreach

1. Advertisements: Cost-Share Program (twice)
2. Valerie, Pete Woll, and Ginger Kauffman reviewed the CD Operations checklist.
3. Vacancy – Valerie conducted an initial screening of all the applications received (101 total). She wrote supplemental screening questions and emailed them to the top 23 candidates. Eighteen responses were received, and interested supervisors are now reviewing these candidates to help decide who to interview.
4. Valerie attended the River to Lake Initiative meeting on January 24th and a River Steward meeting on February 8th.
5. Valerie traveled to Missoula Jan 25-26th for the Western Montana Grazing & Agriculture Conference. The conference was well-attended (~200 people), and the speakers were excellent.
Valerie recommended FCD continue to support the conference and possibly try to do some outreach in the Flathead.
6. Valerie attended the Haskill Basin Watershed Council meeting on February 21nd.
7. Valerie attended Day 1 of the Stream Gaging Workshop that was put on by Soil and Water Conservation Districts of Montana and the Flathead River Commission.



310-related

Valerie continues to coordinate 310-related communication among DNRC, FWP, DEQ, Don MacIntyre (DNRC), Caitlin Overland (Deputy County Attorney), and the legal representatives involved in the judicial review for Stalowy. She compiled an electronic copy of the record for Don MacIntyre, and helped submit a supplement exhibit to the record (hearing transcript).

On-the-Ground Projects

Cow Creek – Valerie and Samantha Tappenbeck met with Mark Mussman and Kari Nielson from Flathead County Planning and Zoning to discuss floodplain permitting for the project. They also attended a partner meeting to discuss the project activities and timeline.

Trumbull Creek – Valerie drafted a contract and scope of work for our project work with our selected consultant, RESPEC. She worked with Mike Rotar to develop a project timeline. She also coordinated meetings and a field visit with the RESPEC consultants (Mike and Troy Benn), Ronald Buentemeier, and Rob Ratkowski (from Glacier Park International Airport) on February 22nd. Valerie reserved the Birch Grove Community Center on March 8th for the Trumbull Creek public meeting, and she sent out postcard invitations to neighboring landowners.

John Ellis asked how the issue of using the county GIS site for addresses was resolved. Valerie stated, we did not use the county website. Samantha Tappenbeck, SWCDM, has ARC GIS on her computer and the skills to use it. She was a great help and was able to use the Montana Cadastral in about ten minutes.

Landowner Programs

Valerie continues to receive regular interest (phone and in-person) inquiries about the seedling program, although only four orders have been submitted through FCD. She also has received several phone inquiries about the cost-share program.

Education and Outreach

Small Acreage Landowners Workshop – Valerie taught the Week 1 of the seminar, which was on soil basics, and she spent a lot of time preparing her presentation. The presentations for Weeks 2 and 3 were on septic/wells/water quality and pasture management, respectively. Attendance has been consistent, and we have received a lot of positive feedback from participants.

Ronald Buentemeier asked if a workbook was being given to landowners, and if the district had a copy for future reference since FCD is a participant. Valerie stated each speaker gives paperwork to attending landowners for a 4" binder. She will ask if extra copies are available.

Website and Educational Programs – Valerie is maintaining the website, updating forms, and administering the educational programs (with a lot of support from Ginger).

Valerie handed out copies of the recent NRCS Snotel report.



Natural Resources and Conservation Service (NRCS): Jessica Ressel, NRCS, submitted the following report:

Office Business

- Working on Environmental Quality Incentive Program (EQIP) Applications. 11 total applications, 8 forestry 3 ag based. Allocated funds are not yet available. Ranking has been completed for all high priority applicants. High priority was given to those applicants that are addressing forestry health and are beginning farmers. It is not known if we will be able to fund medium priority applicants at this time. Obligation deadline is set for April 18th, 2018.
- Continual work on thinning projects, and field work pertaining to Environmental Quality Incentive program (EQIP)/Conservation Stewardship Program (CSP)/Wetlands Reserve Program (WRP) contracts.
- NRCS had a special initiative sign up through EQIP that was announced at the end of December, with a deadline of January 19th. Initiatives included: fire restoration, energy, honey bee pollinator and high tunnel. Kalispell office had 3 applicants for high tunnel installations. Ranking will be completed by March 23rd, and obligation date set for May 18th.

Contracts

- **EQIP**- 23 active EQIP contracts. Land uses include: forestland/pre-commercial thinning, ag land/high tunnels.
- **CSP**- 12 active CSP contracts; 6 of them in their last year. All but one contract payment has been made for FY 2017.
- **WRE** (Wetland Reserve Easements) - 15 easements; of those 4 of them are 30 year easements. A continued use agreement for grazing will need to be updated this year for one of the WRP contracts, this will require a grazing plan to be implemented.

Administrative

Jessica Ressel is point of contact for Kalispell NRCS office. Herb Webb of the Pablo office is Acting District Conservationist (DC) in place of Angel Rosario for 4 months and will be in the office once every two weeks. Office workload will be managed between Jessica, Herb, Roger Marsonette and Mindy Gauthier (Area Conservationist, Missoula). Mindy would like to attend one of the conservation districts meetings to introduce herself and talk about the Kalispell Field Office vacancy sometime in the spring.

Montana Association of Conservation Districts (MACD): Pete Woll reported that MACD held a Strategic Planning meeting last week in Helena. A Mission Statement was drafted and the MACD Board will review it during the next conference call. The biggest thing of note is that Elena Evans resigned as Executive Director of MACD. Ann McCauley will serve as the interim director until a replacement can be hired. Dean Sirucek noted that Jeff Wivholm called him today and asked him to serve on the Water Committee to represent the western part of the state. Dean accepted.



Flathead County Planning Board: Dean Sirucek reported the board had one zoning change request (from suburban ag to small industrial) on property across the highway from the landfill. This went forward with a unanimous recommendation to the county commissioners. Also, the Flathead County Planning and Zoning are going to go through the zoning definitions and criteria to simplify or collapse some sections. Dean will bring further information back to the district board.

Whitefish City Planning Board: John Ellis reported the meeting included 1) A request regarding 70 acres across from Don K for an amendment to the growth policy to change use designations. The public comment on this issue will be continued at the next meeting. 2) A growth policy change request on Wisconsin Avenue, from the viaduct to Big Mountain Road. Public comment is closed on this issue, but the board has not voted. The next meeting is March 15th.

Upper Columbia Conservation Commission (UC3): Lori Curtis reported that UC3 has been working with the Montana Invasive Species Council and Columbia River Basin Team to prepare for this year's boating season. Many people, agencies and committees are involved in this collaborative process. The next meeting is March 14th in Missoula.

Haskill Basin Watershed Council (HBWC): Valerie Kurth reported that HBWC received a response from the City of Whitefish to questions they submitted 3.5 years ago regarding the reservoir management plan. They are working to set up meetings with all the stakeholders regarding the culvert replacement. The next meeting is April 3rd.

Flathead Basin Commission (FBC): Dean Sirucek reported that FBC had a re-organization meeting. They discussed the aquatic invasive species (AIS) legislation, by-laws, appointees, budget, and governor appointees. Officers were not elected. FBC withdrew from the rulemaking process for the AIS pilot program (HB 622). The next meeting is April 25th in Polson or Pablo.

Flathead River Commission (FRC): Mark Siderius reported that there was no meeting in February, and the next meeting will be in April. He also reported on the recent stream gaging workshop, which was co-hosted by FRC and Samantha Tappenbeck, from Soil and Water Conservation Districts of Montana. It was well-attended and notable that there are so many independent stream gaging networks without communication among the agencies. The workshop brought these independent entities together for good discussion.

Individuals and agencies spoke about their specific use of stream gages. Mark stated some were surprised that those in the farm industry and those with river front property use stream gage data in a more critical fashion than others. Farmers who work adjacent to the river watch, wait and prepare for the water that is coming, and flow information is critical to preserving their income. There was a discrepancy between their management and what happens to us on the ground.



Clark Fork Basin Council: Verdell Jackson reported that the executive committee met last Friday in Missoula. He was asked to draft the legislation to coordinate all the watershed councils. The bill would eliminate the old Clark Fork Task Force and combine three councils together for the state. All three councils can work together to implement the state water plan. Verdell noted he is the only representative from a conservation district and the rest are from watershed groups, but all are concerned with water quality.

MATTERS OF THE BOARD/STAFF

Montana Watershed Incorporated (MWI): Pete Woll explained that there used to be a 501(3)(c) that included Lake County CD (LCCD), Lincoln CD and Flathead CD, and it was called Montana Watershed Incorporated. Jim Simpson from LCCD asked him about it because LCCD wants to dissolve it, but they still hold MWI and funds. He wanted to know what FCD wants to do with it. This will be on the March 12th meeting agenda.

Draft Code Amendments:

Verdell Jackson reported that he and John Ellis worked on draft code amendments. John Ellis explained that the goal is to remove the applicant from the definition of team, then the team becomes the conservation district and FW&P. To preserve the applicant's rights, wording was added about the applicant being allowed to submit additional information.

Ronald Buentemeier asked Verdell Jackson to send the draft amendments to FCD staff for distribution to the FCD board. Adopted Rules will also be sent. This will be on the March 310-meeting agenda. Ronald explained that the Flathead CD has to first make an official decision before taking it any further. Ronald also asked staff to contact Laurie Zeller, DNRC. Ronald noted this can be brought up at the Area V Supervisor's Training.

Assistant Conservationist Position

Valerie Kurth explained that supervisors are in the process of reviewing final applications, and the top 4-5 applicants will be interviewed.

The next 310-Stream Permit meeting is scheduled for Monday, March 12, 2018, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell, MT.

Adjournment: Dean Sirucek made a motion "to adjourn." Verdell Jackson seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:30 P.M.

Submitted By: Valerie Kurth, Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>3/12/2018</u>	<u>Ronald Buentemeier</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)

